

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.1063 of 1990

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For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

1 to 5 : NO

V A CHRISTIE

Versus

STATE OF GUJARAT

Appearance:

MR MB BUCH for Petitioner
Ms.S.D. Talati for Respondent No. 1
NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE R.A.MEHTA

Date of decision: 27/04/98

ORAL JUDGEMENT :

The petitioner, working as Superintendent, Nursing Services, under ESI Schemes, claims the same pay scale as of Superintendent, Nursing Services (Medical) on the ground of "equal work, equal pay" and prays that same upward revision in the pay scale and other benefits be given to the petitioner as given to the Superintendents,

Nursing Services (Medical) with effect from the same date.

2. On behalf of the respondents it is pointed out that the Gujarat State 3rd Pay Commission (Justice Ahmadi Commission) had dealt with the subject of Health and Family Welfare Department in Chapter 19, in eight sections. Sections I to IV are as follow :

Chapter 19

HEALTH AND FAMILY WELFARE DEPARTMENT

Section I : Director of Health, Medical
Services and Medical Education
(Health)

Section II : Director of Health, Medical
Services and Medical Education
(Medical)

Section III : Director of Health, Medical
Services and Medical Education
(Medical Education & Research)

Section IV : Director of Medical Services (ESI
Scheme)

3. In section II, the pay scale of Superintendent, Nursing Services (Medical) is revised from Rs.1400 - 1800 to Rs.2250 - 3270.

4. In section III - Medical Education and Research - the pay scale of Superintendent of Nursing Services is revised from Rs.1400 - 1800 to Rs.2750 - 3650, with a recommendation to redesignate the post as Assistant Director, Nursing Services.

5. In section IV relating to Employees' State Insurance Scheme, the post of Nursing Superintendent is revised from Rs.900-1500 to Rs.2250-3270 and this post is specifically dealt with in para 24 to 27, which read as following :

"24. The post of Nursing Superintendent exists in the Directorate of Health and Medical Services as well as in the Directorate of Medical Services, Employees' State Insurance Scheme. The Recruitment Rules for the post under Employees' State Insurance Scheme envisage appointment

either by promotion of a persons of proved merit and efficient from amongst persons working as Matrons in the Directorate or by nomination of a candidate possessing B.Sc. Nursing or post basic B.Sc. degree in Nursing Education or Nursing Administration or in Public Health Nursing or equivalent qualification recognised by the Indian Nursing Council with about 7 years' experience in Nursing and teaching in the field of Nursing at a recognised Institution or College.

25. The Director, while tendering evidence before the Commission, has stated that the pay scale of Nursing Supdt. which is a State level post should be equivalent to its counterpart in Medical Services (Rs.1400 - 1800) and the post should be redesignated as Assistant Director (Nursing).

26. The Additional Chief Secretary expressed the view that the post carrying the scale of Rs.900 - 1500 in the nursing wing should be upgraded to Rs.1100 - 1600. In the revised proposal, which the Department has sent to the Commission after discussion, the suggestion is to put the post on the scale of Rs.1100 - 1600 with the proposed designation of Supdt. of Nursing Services (ESIS). The Second (Gujarat) Pay Commission had equated the post with the post of Assistant Supdt. of Nursing Services under the Health and . and recommended a scale of Rs.900 1500 against the scale of Rs.350 - 850 (Class II scale as in vogue prior to 1st January 1973). The recommendation of the Commission was accepted and the post was placed in the scale of Rs.900 1500.

27. The Commission accepts the suggestion made by the Health and Family Welfare Department and recommends that the post may be redesignated as Supdt. of Nursing Services (Employees' State Insurance Scheme) and may be in the scale of Rs.2250 - 3270. The Commission also recommends that Govt. may take prompt action to revise the Recruitment Rules for the post on lines of Recruitment Rules prescribed for similar post in Medical and Medical Education Section."

6. In view of this expert recommendations given by the 3rd Pay Commission, there is no scope for any interference by the High Court under Article 226 of the

Constitution.

7. It appears that this is a solitary post occupied by the petitioner. The petitioner has also retired from service.

8. In view of the consideration and recommendation of the expert Pay Commission, there is no scope for interference. Hence the petition is dismissed. Rule is discharged.

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